

WHEN IT COMES TO THE ACA, CHANGE IS THE ONLY CONSTANT: FIVE RECENT ACA CHANGES YOU NEED TO KNOW ABOUT

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While many of us were busy celebrating the holidays, Congress and the IRS were hard at work creating and promulgating revisions to the Affordable Care Act (ACA). Here's what you need to know about the most recent changes.

ACA Reporting Deadlines Extended, Some Mercy Shown. Under the ACA, large employers are required to file Forms 1094-C (to the IRS, on behalf of the company) and 1095-C (to the IRS and individuals for all full-time employees) starting with calendar year 2015.

The good news is that the 2016 deadline for furnishing returns to individuals has been moved from February 1 to March 31, and the deadline for filing with the IRS has been bumped back from March 31 to June 30. Be aware, however, that this new IRS deadline only applies if you are filing electronically. For employers not filing electronically, the new deadline is May 31.

More good news: the IRS has stated that it will provide relief from penalties to employers that fail to properly complete and submit Forms 1094-C and 1095-C, but only if you are able to show that you made good faith efforts to comply with your reporting obligations. Similar promises have not been made for late filers.

Service Focus

Employee Benefits and Tax

Cadillac Tax Delayed From 2018 To 2020. On December 18, 2015, the President signed into law the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). This law will delay the ACA's 40% excise tax, commonly known as the "Cadillac Tax," from 2018 to 2020. In addition, though the tax was originally nondeductible, the PATH Act revised this aspect of the penalty so that any Cadillac Tax paid by employers will now be deductible as a business expense.

Automatic Enrollment Repealed. That's not the only impact of the PATH Act. The ACA originally required that employers with over 200 employees automatically enroll employees in health plan coverage. This would have required employees to affirmatively "opt out" of medical coverage. However, although the ACA included this requirement, it never became effective because regulations implementing that rule were never promulgated. Under the new law passed in mid-December, this requirement has been repealed.

Affordability Safe Harbor Percentages Adjusted For Inflation. The ACA provides for an annual adjustment for inflation of the "9.5% of household income" figure used to determine whether a medical plan is considered "affordable" to an employee. IRS Notice 2015-87, issued on December 16, 2015, incorporates this annual adjustment into the safe harbors for affordability. This includes the W-2 Safe Harbor, the Rate of Pay Safe Harbor, and the Federal Poverty Line Safe Harbor.

Therefore, for plan years beginning in 2015, you can rely on 9.56% for any one of the safe harbors under the ACA. For plan years beginning in 2016, that figure will rise slightly to 9.66%.

ACA Penalties Adjusted for Inflation. Finally, the ACA requires large employers to provide coverage to their full-time employees or face one of two penalties for noncompliance (IRC Section 4980H(a)(1) and 4980H(b)(1) penalties). The larger penalty, which applies if you fail to offer coverage to at least 95% (70% in 2015) of your full-time employees, was \$2,000 per full-time

employee minus the first 30 (80 in 2015). The smaller penalty, which applies if a large employer offers coverage but fails to offer affordable coverage to an individual employee who receives an Exchange subsidy, was \$3,000 for that employee only.

IRS Notice 2015-87 announced a premium adjustment percentage for inflation, which means employer mandate penalty amounts will rise. The large penalty will increase from \$2,000 per full-time employee to \$2,080 in 2015, and will increase to \$2,160 in 2016. The small penalty will increase from \$3,000 per individual employee to \$3,120 in 2015, and will rise to \$3,240 in 2016.

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